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UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

PORTLAND DIVISION

DON'T SHOOT PORTLAND, et al.

Plaintiffs

v.

CITY OF PORTLAND, a municipal
corporation,

Defendant.

Case No. 3:20-cv-00917-HZ

DECLARATION OF EVAN TUPPER IN
SUPPORT OF PLAINTIFF'S MOTION FOR
CLASS CERTIFICATION
ORAL ARGUMENT REQUESTED

I, Evan Tupper, declare as follows pursuant to 28 USC § 1746:

1. I have personal knowledge of the information contained in this declaration. If called upon to do so, I could and would competently testify regarding the matters set forth herein

2. On July 14, 2020, I went for a short walk in my neighborhood. I live near N Fenwick and N Lombard near the Portland Police Association. I planned on a brief walk around the neighborhood as my wife was ill and home alone with our child.

3. I knew there were protests occurring in my neighborhood and I walked toward the protest to check it out. I was not planning on attending the protest. As I approached Lombard St I witnessed people in distress. I saw people helping other people I believe had been exposed to teargas, munitions, and police brutality.

4. I was an observer not a participant. I was standing on the sidewalk on Lombard. I was between protesters and police. I was facing towards the police (the same direction that most protesters were facing) but was in front of most protesters. The majority of the protest group was in the middle of Lombard or towards the north side of the street, I was standing on the sidewalk on the south side of Lombard.

5. I was disturbed about the dangerous activity in my neighborhood. I was vocal to the police within earshot about my dissatisfaction with the situation. The police began walking in a line and were pushing me in front of them until they ran past me for reasons that were unclear to me and then stopped just past the crosswalk that crossed Lombard on the west side of the intersection with Fenwick.

6. The police were not clear about what they wanted people to do, they did not offer any direction, and were not giving clear orders. I decided to leave. I went to cross Lombard and was approached by a female officer. She would not let me cross Lombard. I moved away from her and further down Lombard and tried to cross again.

7. A policeman named Kammerer said to me, to the best of my recollection, "I can't have you behind the line" which didn't indicate to me anything about where he did want me to be. I wanted to move away from the altercation and not back towards the police where he was shoving me. I asked him repeatedly where I could cross Lombard, how far down the block I should go to cross the street, why he was pushing me towards the police line if that wasn't where I was supposed to be but never got any verbal response. I was not trying to interfere with the police and asked again "where do you want me?" Kammerer did not reply.

8. Kammerer pushed me by grabbing my arm and shoving me. I had been pushed in the back by the advancing police line earlier before they ran past me, leaving me behind them which (I had no way of knowing) was apparently not where I was supposed to be. I was being totally compliant.

9. Kammerer did not say anything to me even though I repeatedly asked him where I should be. He began pushing me toward the police line with his baton. I asked him "why are you pushing me if you don't want me to cross the police line"?

10. An officer named Lehman approached me and with a handheld canister pepper sprayed me directly in the face. Lehman's only words before he sprayed me were "Fuck it." It hurt so badly. I

could not open my eyes and I could not breathe well.

11. After I was sprayed in the face, I was tackled to the ground with my arm being bent almost to the point of breaking. I was told not to resist. It was the opposite of what my natural response and instincts told me to do, to relax my body when someone was threatening to break my arm and after I had been violently assaulted without provocation.

12. I was attacked for no reason. I could not open my eyes. I could not see and the effects of the pepper spray intensified as time went on.

13. I was arrested and loaded in a van with others. While in the van I began to scream in pain from the pepper spray in my eyes. I was removed from the van and given a couple of tablespoons of water on my face then put back in the van.

14. I was taken downtown, put in a holding cell, and was not released until 9:30 am. The single charge against me, Interfering with a Police Officer, was “no complained” and dismissed.

15. It was the Portland Police Bureau who hit me, tackled me and pepper sprayed me because the officers responsible were identified by the Independent Review Board and Internal Affairs as PPB Ofc. Kammerer and Lehman.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on January 5, 2022

Evan Tupper

Evan Tupper (Jan 7, 2022 16:40 PST)

EVAN TUPPER